

REMARKS

Upon entry of the present amendment, the claims remaining in the application are currently amended claims 1 and 11.

Entry of the present amendment is respectfully requested because it drastically reduces the number of claims, and decreases the issues for appeal, if necessary.

Currently amended claim 1 amends the previous claim 1, and incorporates all of the limitations of claims 2-8, and also incorporates additional limitations.

Such additional limitations find support in the following specification portions of the present application.

Page 6, lines 12-15 state: "In accordance with the present invention, this novel and unique method of advertising utilizes otherwise 'blank' space on the front, back, sides, top, and/or bottom of, for example, corrugated or chipboard shipping/packaging cartons 1. Such 'blank' space would be utilized for graphics and text, i.e., advertisements".

Also, page 7, lines 11-13 state: "The size of the advertisements would be determined by container or box size and advertiser/carton user discretion".

The currently amended claim 11 has been amended in a similar fashion to the amendments in the currently amended claim 1.

Applicant respectfully traverses the 35 USC 103(a) rejection based on the following.

Applicant is pleased to note that the Examiner concedes that Shackelford et al. does not expressly disclose a first party owning said container, a second party separate and distinct from said first party, nor a second advertisement of said second party.

However, the Examiner alleges that stamps are a form of advertising of the United States Postal Service.

First, it should be noted that applicant does not claim “a form of advertising”. In contrast, applicant claims a second “advertisement”.

Moreover, even if applicant were claiming “a form of advertisement” (which applicant does not) rather than an actual “advertisement”, it is respectfully submitted that the reasoning of the Examiner is not valid. In particular, if one were to follow the reasoning of the Examiner, then one might conclude that everything in the universe is “a form of advertising”.

For example, should one conclude that a notice received from the IRS that your tax has been paid is a form of advertising or an advertisement of the Internal Revenue Service?

Should one conclude that a tree is a form of advertising or an advertisement from God?

Should one conclude that a slide-on wire paper clip is a form of advertising or an advertisement of the metal industry, or of the metal bending industry?

Should one conclude that the stamp “PAID” on a copy of your property tax bill is a form of advertising or an advertisement?

Should one conclude that a maintenance fee notice stamped “PAID” is a form of advertising or an advertisement of the USPTO?

Applicant respectfully submits that all of the hypothetical questions posed above should be answered in the negative.

Further, applicant respectfully submits that an “advertisement” is a promotion, broadcast, publication or ballyhoo which calls public attention by emphasizing desirable qualities so as to arouse a desire to buy or patronize. Applicant respectfully submits that a postage stamp is not an advertisement.

In contrast, applicant respectfully submits that a stamp of the United States Postal Service is in the nature of a stamped or printed paper affixed in evidence that a tax or fee has been paid, and in particular is a government adhesive stamp or imprinted stamp for use on mail as evidence of prepayment of postage, and does not emphasize desirable qualities so as to arouse the desire to buy or patronize.

Also, it is respectfully submitted that a postage stamp is not a second advertisement provided with a size determined, at least in part, by the container size, as now specified in currently amended claims 1 and 11.

In light of the foregoing, and all of the limitations in currently amended claims 1 and 11, reconsideration and withdrawal of the obviousness rejection is respectfully requested.

Furthermore, in light of the foregoing, applicant respectfully submits that each of the two remaining pending claims is allowable over the prior art of record. Action to this end is earnestly solicited.

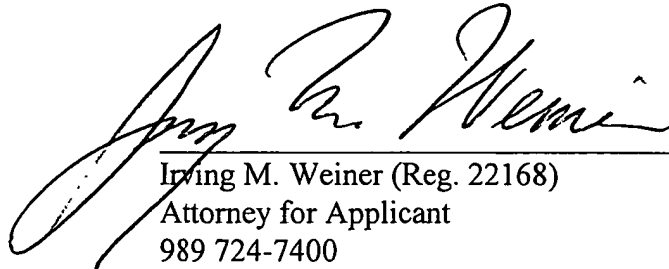
In the event that the Examiner is not convinced that the application is presently in condition for allowance, it is respectfully requested that the Examiner promptly telephone the undersigned attorney for applicant in an effort to facilitate the prosecution, and/or to narrow the issues for appeal, if necessary.

Applicant submits herewith a request for an extension with the PTO 2038 to cover the extension fee.

Favorable reconsideration is respectfully requested.

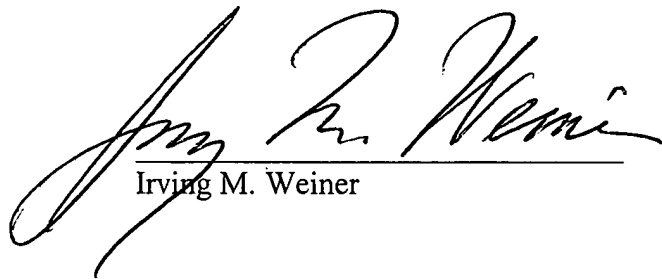
Respectfully submitted,

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Certificate of Mailing

I hereby certify that the foregoing amendment, together with its mentioned enclosures, was sent by first class mail to Box AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 30, 2003.


Irving M. Weiner